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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
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10/758,555

01/16/2004

Rafael Rivera

84,555

5965

38092

7590

11/14/2006

OFFICE OF COUNSEL, CODE 004

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EXAMINER

ADAMS, GREGORY W

ART UNIT

PAPER NUMBER

3652

DATE MAILED: 11/14/2006

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

10/758,555

Applicant(s)

RIVERA ET AL.

Examiner

Gregory W. Adams

Art Unit

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 20 June 2006.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-3 and 8 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-3 and 8 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
 - ☐ Certified copies of the priority documents have been received in Application No. _____.
 - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- * See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 5) <input type="checkbox"/> Notice of Informal Patent Application |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08)
Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____ |

DETAILED ACTION

General Comments

This application has been transferred to Examiner Gregory W. Adams.

Claim Rejections - 35 USC § 112

The following is a quotation of the first paragraph of 35 U.S.C. 112:

The specification shall contain a written description of the invention, and of the manner and process of making and using it, in such full, clear, concise, and exact terms as to enable any person skilled in the art to which it pertains, or with which it is most nearly connected, to make and use the same and shall set forth the best mode contemplated by the inventor of carrying out his invention.

Claim1 is rejected under 35 U.S.C. 112, first paragraph, as failing to comply with the enablement requirement. The claim(s) contains subject matter which was not described in the specification in such a way as to enable one skilled in the art to which it pertains, or with which it is most nearly connected, to make and/or use the invention. The specification discloses a motorized means to move guide rails (para. [0017], lines 15-19) and a motorized means to position the spreader bar of the crane into alignment with at least one container (para. [0017], lines 5-7], but does not a single motorized means that performs both functions. Thus, its unclear which means is being referred to. For purposes of examination it is assumed that this could comprise two separate means, e.g. means for moving guide rails and means for positioning a spreader bar.

It is noted that Applicant has not invoked 112, sixth paragraph. Applicant has successfully invoked 35 U.S.C. 112, sixth paragraph by including a description of where in Applicant's specification page and line number the appropriate functional language is found. See MPEP 2181-2186; see also *In re Donaldson*, 16 F.3d at 1195, 29 USPQ2d at 1850.

Claim Rejections - 35 USC § 103

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claims 1 & 8 are rejected under 35 U.S.C. 103(a) as being unpatentable over Makino (US 4,293,077) (previously cited) in view of Gary (US 5,105,915) (previously cited).

With respect to claim 1, Makino discloses a system for transferring loaded containers between a delivery vehicle and a dockside located sea vessel by use of a crane having a spreader bar suspended therefrom, comprising: a mobile loader including a fixedly attached motorized cab (indicated generally as 1a-b); a platform 8 having guide rails 7a-b; motorized means 16 to position the spreader bar 17 of the crane into alignment with the at least one container; and hoist means 15 for the transfer of the at least one container between the platform 8 and the delivery vehicle 23 positioned (indicated generally as 21) within the loader. It is noted that Makino discloses fixedly attaching mobile loader to motorized cab (indicated generally as 1a-b) through links 9, 19. With regards to claim 1 it is irrelevant Makino's loader 6 receives its motive force from the bridge crane because claim 1 merely requires it be fixedly attached.

Makino does not disclose motorized means mounted on the platform to move the guide rails into engagement with the at least one container. Gary discloses motorized

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means 90 & 92 mounted on a platform 20 for movement of the guide rails 30 & 34 to enclose an object. Gary further discloses that these rails insure the stability and safety of the object being lifted on top of the platform. (see Abstract, lines 6-9). It would have been obvious to one having ordinary skill in the art at the time the invention was made to include motorized means as taught by Gary to the platform of Makino to move the guide rails, in order to insure the stability and safety of the object being transferred.

With respect to claim 8, Makino discloses guide rails have flair shaped ends 4b for redirecting the spreader bar.

Claim 2 is rejected under 35 U.S.C. 103(a) as being unpatentable over Makino in view of Gary as applied to claim 1 above, and further in view of Ide (US 5,039,275).

With respect to claim 2, Makino does not disclose lift means connected to the platform for elevation thereof to decrease required descent of the spreader bar. Ide discloses lift means 99 connected to the platform 64 & 66 for elevation to decrease required descent of the spreader bar 57 from the crane toward the container 25 carried on the platform. Ide further discloses that the trolley 23 and the hoist 24 may thus be operated to transfer the containers to the elevator platform with only a minimum of vertical travel of the containers. It would have been obvious to one having ordinary skill in the art at the time the invention was made to have included lift means for elevation of the platform, as taught by Ide, to the system for transferring loaded containers of Makino, in order to reduce the travel time of the trolley and hoist by minimizing the vertical travel of the containers being moved by the trolley and hoist.

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Claim 3 is rejected under 35 U.S.C. 103(a) as being unpatentable over Makino in view of Gary, Ide and Curry (US 5,343,739).

With respect to claim 3, Makino discloses a wheeled frame 6a-b having first and second vertical posts 6a-b, said vertical posts adjacent to a delivery vehicle receiving opening and does not disclose sensor grid means positioned between a second pair of vertical posts and operatively connected to the motorized means and the hoist means for controlling the movement of the container. Curry discloses sensor grid means, see laser transmitters 30 and photo-electric receivers 34, 36, and 38, operatively connected to motor controllers for controlling the movement of the container (see Fig 14) and installed between a second pair of vertical posts. It is noted that Curry discloses a sensor grid installed on tower legs convenient for scanning for obstructions. C3/L1-20. Pulse channels 150 & 151 respond to the presence or absence of laser pulses received by the photo-electric receivers 34, 36, and 38. These pulse channels are operatively connected to the gantry motor controllers 62 that are responsible for container movement. The collision detection system warns of impending unsafe conditions (see Abstract). It would have been obvious to one having ordinary skill in the art at the time the invention was made to add sensor grid means positioned between a second pair of vertical posts and operatively connected to the motorized means and the hoist means for controlling the movement of the container, as taught by Curry to the system of Makino, in order to provide a collision detection system and warn of impending unsafe conditions.

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Makino does not disclose lift means disposed on an elongated bottom support. Ide discloses lift means 99 as discussed above. It would have been obvious to one having ordinary skill in the art at the time the invention was made to have mounted lift means in an underlying relation to the platform, as taught by Ide to the elongated bottom support of Makino, in order to secure the lift means to the structural frame.

Response to Arguments

Applicant's arguments/amendments filed June 20, 2006 have been fully considered but they are not persuasive. Newly presented claim 8 has been addressed on the merits above.

The Examiner does not agree with Applicants interpretation. As noted above, Gary's rails move in and out via motors 90, 92 to enclose an object. Applicant has not disclosed specific structure, e.g. actuator or gear, that would further define said means that moves rails and position a spreader beyond the mere claiming of the function, which Gary's moving rails 30, 34 perform. Thus, Applicant is respectfully provided the following guidance to properly invoke the requirements 35 U.S.C. 112, second paragraph, when 35 U.S.C. 112, sixth paragraph has been invoked: An invocation of 35 U.S.C. 112, sixth paragraph must accompany a description of the where in Applicant's specification page and line number the appropriate functional language is found. See MPEP 2181-2186; see also *In re Donaldson*, 16 F.3d at 1195, 29 USPQ2d at 1850. As noted above, for purposes of examination it is assumed that this could comprise two separate means, i.e. means for moving guide rails and means for positioning a spreader bar.

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It is noted that Makino discloses fixedly attaching mobile loader to motorized cab (indicated generally as 1a-b) through links 9, 19. With regards to claim 1 it is irrelevant Makino's loader 6 receives its motive force from the bridge crane because claim 1 merely requires it be fixedly attached.

Finally, with respect to achieving particular goals, Applicant is respectfully reminded to follow proper affidavit practice when submitting evidence of secondary considerations, e.g. the achievement of efficiently transferring loaded containers between a delivery vehicle and a dockside located sea vessel. See Applicants arguments page 7, lines 6-10.

Conclusion

THIS ACTION IS MADE FINAL. Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of this final action.


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Any inquiry concerning this communication or earlier communications from the examiner should be directed to Gregory W. Adams whose telephone number is (571) 272-8101. The examiner can normally be reached on M-Th., 8:00-5.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Eileen Lillis can be reached on (571) 272-6928. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

GWA



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